

REMARKS

Claims 1 through 27 have been rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 5,732,695 (Metzger) in view of U.S. Patent No. 4,364,689 (Dumortier) or U.S. Patent No. 5,741,084 (Del Rio et al.). On appeal, the Board of Patent Appeals and Interferences affirmed the Examiner's final rejection of claims 1 through 27. A Request for Rehearing was denied in view of "new arguments and evidence not raised in the Briefs before the Board." Applicants have been invited by the Board to file a Request for Continued Examination "[t]o have these new arguments and evidence considered by the Examiner."¹ Applicants respectfully solicit a Notice of Allowance in view of the following arguments and evidence not considered by the Board.

Rejection of claims 1 through 14 and 17 through 27 in view of Metzger and Dumortier

Claims 1 through 14 and 17 through 27 have been rejected under 35 U.S.C. § 103(a) as unpatentable over Metzger in view of Dumortier. Applicants respectfully submit that this rejection cannot be sustained for the following reasons.

Firstly, Dumortier's connection feature would not be applicable for use in a personal respiratory protection device. The connection in the Dumortier manhole cover assembly relies on gravity to remain closed, and is intended only to function in a horizontal orientation, such as in a roadway. The connection of Dumortier would not provide a connection that is "incapable of being inadvertently separated" in a personal respiratory protection device that is used in many possible orientations. The Dumortier device uses a pawl 7 that is pivotably mounted at one of its ends such that when the flange 15 is in an upright position shown in Figure 7 of Dumortier, it can be grasped to lift the cover 3 from the ring 2:

¹ Decision on Request for Reconsideration, p. 2.

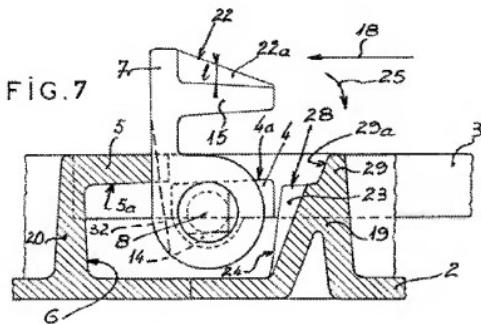


FIG. 7

This connection, however, only provides a locking function when used in a horizontal orientation such that the force of gravity maintains the pawl 7 in the orientation shown in Figure 8:

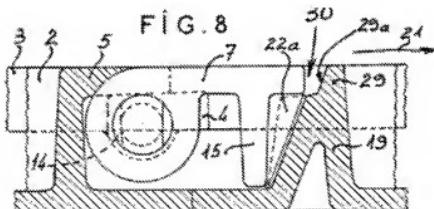


FIG. 8

The connection does not provide a locking function in other orientations in which gravity is not acting to maintain pawl 7 in a locked position. Further to this point, the Examiner is invited to consider the attached Affidavit of Alan J. Solyntjes, particularly paragraph 6, where it is explained that the manhole cover of Dumortier is used in a horizontal orientation and would not provide a connection that is "incapable of being inadvertently separated" if incorporated into a personal respiratory protection device used in many different orientations. The Dumortier device would come open if used in orientations outside of those shown in the figures included above. Inverting the product could provide an uncoupling, which would be an inadvertent detachment outside of the claimed invention. For this reason alone, the combined teachings of

Metzger and Dumortier would not have led a person of ordinary skill to the features that comprise the present invention, even if combined.

Secondly, the present application defines “incapable of being inadvertently removed or separated” to mean that the first and second portions are permanently joined or can *only* be separated through use of a key.² That is, the connection is *only* non-destroyingly separable by using a key. The connection described by Dumortier, however, can be separated non-destroyingly *without* the use of a key. For example, Dumortier indicates that a “lever is especially advantageous when pulverulent deposits may interfere with displacement of the pawl between its open and closed positions,”³ but makes no suggestion that the connection is “only” non-destroyingly separable with the use of a lever. In fact, the connection is unlikely to provide any locking function whatsoever in orientations in which the force of gravity does not maintain the pawl in a locked position. Further, pulverulent deposits would not likely occur in respiratory applications, making Dumortier’s lever unnecessary. Accordingly, the connection of Dumortier is not “incapable of being inadvertently removed” or “separated.”

Ultimately, the combination of the devices of Metzger and Dumortier does not result in a device having a connection that is “incapable of being inadvertently removed” or “separated,” or that is “permanent,” and claims 1, 20, 23, and 25 are therefore in condition for allowance. Claims 2 through 14, 17 through 19, 21, 22, 24, 26, and 27 depend from and include each element of claims 1, 20, 23, or 25 and are similarly in condition for allowance. It is respectfully requested that the rejection of claims 1 through 14 and 17 through 27 be reconsidered.

Rejection of Claims 1 through 3, 7, 8, 10 through 16, 18 through 20, 23 and 24 in view of Metzger and Del Rio et al.

Claims 1 through 3, 7, 8, 10 through 16, 18 through 20, 23, and 24 have been rejected under 35 U.S.C. § 103(a) for claiming subject matter that would have been obvious to a person of ordinary skill in view of Metzger and Del Rio et al. Applicants respectfully submit that this rejection cannot be sustained.

Claims 1, 20, and 23 of the present application require a connection that is “incapable of being inadvertently separated,” or a connection that is “incapable of being inadvertently

² Page 4, lines 24-28.

³ See Dumortier at column 6, lines 25-31.

removed.” The present application defines “incapable of being inadvertently removed or separated” to mean that “the first and second portions are permanently joined or can only be separated with the use of a key that unlocks the first and second portions without breaking or destroying either portion.”⁴ On appeal, the Examiner and the Board construed “key” broadly to conclude that a mere “force” is a sufficient input to render claim 1 obvious. As amended, the present application defines “key” to mean an “implement, device, or element that functions, as intended, for unlocking the first and second portions of the bayonet attachment system.”

Applicants submit the present amendment to clarify the definition of a “key.” Specifically, the specification is amended to remove the term “input” from the definition of “key” to eliminate the broad application of the term upon Del Rio et al. Accordingly, reconsideration of the rejection is respectfully requested.

Conclusion

All outstanding matters associated with the present application are believed to have been addressed, and reconsideration of the application and allowance of the pending claims is respectfully requested. If a telephonic interview with the Applicants’ representative would be useful in resolving any matters remaining in the application, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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Date

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⁴ Page 4, lines 24-28.